

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 12/15/17	

A.G.L., an Infant under the age of 14 years, by his Parent and Natural Guardian, ELIZABETH LUIS, and ELIZABETH LUIS, Individually,

Plaintiffs.

-against-

DANIEL PAGNANI M.D., DR. KAISHA, GREATER HUDSON VALLEY FAMILY HEALTH CENTER, AND ST. LUKE'S CORNWALL HOSPITAL,

Defendants.

Civil Action No. 17-cv-9673

**STIPULATION OF SUBSTITUTION
AND VOLUNTARY DISMISSAL
WITHOUT PREJUDICE**

WHEREAS, on or about July 26, 2017, Elizabeth Luis ("Plaintiff"), on behalf of herself and her infant A.G.L., filed a complaint in the above-captioned matter (the "Complaint") in New York Supreme Court, County of Orange;

WHEREAS, on December 8, 2017, the above-captioned matter was removed to the United States District Court for the Southern District of New York;

WHEREAS, the Complaint alleges claims against Daniel Pagnani, M.D., Dr. Anhtho Kashyap (sued as "Dr. Kaisha"), and the Greater Hudson Valley Family Health Center (together, the "Federal Defendants"), concerning medical care provided from on or around May 1, 2014 to February 1, 2015;

WHEREAS, the Federal Defendants have been deemed eligible for coverage under the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.* (the "FTCA"), pursuant to the Federally Supported Health Centers Assistance Act, 42 U.S.C. §§ 233(g)-(n);

WHEREAS, the United States of America is the only proper federal defendant in an action brought under the FTCA, 28 U.S.C. § 2679(d);

WHEREAS, Plaintiff has not exhausted her administrative remedies in accordance with 28 U.S.C. § 2675(a);

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between parties and their counsel, that:

1. Plaintiff hereby substitutes the United States of America as the defendant in place of the Federal Defendants;
2. Pursuant to Fed. R. Civ. P. 41(a), Plaintiff voluntarily dismisses all claims against the United States of America in the above-captioned action, without prejudice and without costs or attorneys' fees, so as to permit the completion of the administrative exhaustion process;
3. The parties stipulate that such dismissal is for failure first to present a claim pursuant to 28 U.S.C. § 2675(a), as contemplated in 28 U.S.C. § 2679(d)(5);
4. The United States expressly reserves all defenses, including as to timeliness of Plaintiff's claims under the FTCA;
5. This Stipulation may be signed in counterparts.

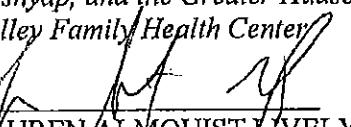
Dated: New York, New York
December 13, 2017

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Dated: New York, New York
December 13, 2017

JOON H. KIM
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Southern District of New York
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Kashyap, and the Greater Hudson
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SO ORDERED:

U.S.D. JUDGE CATHY SEIBEL


December 14, 2017


Re Clerk will close Re Case.